

JOHN HAYWARD, D.D. and  
JOHN MORSE, D.D.

# HIGH TREASON

IN THE UNITED STATES OF AMERICA.

That the following persons were the  
Authors of the same, and that the  
same were committed by them, being  
aided and abetted by the same.

At the demand of our Executive in Council,  
we have caused the following to be  
published.

1862

NEW YORK:

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THE SUBSTANCE OF WHAT PASSED ON TUESDAY THE 23.  
of May 1658. at the Tryall of  
Sir HENRY SLINGSBY K,  
in Westminster-Hall, &c.

**T**He High Court being set, and the Names of the Commissioners being called, The Serjeant at Armes was commanded to fetch the Prisoner to the Bar. Sir Henry Slingsby was brought accordingly to the Bar. Then Proclamation made for silence, and the Commission for Tryal of the Prisoner read. Proclamation for silence again was made, Then Mr. Attorney General Prideaux exhibited a Charge of High Treason against Sir Henry Slingsby the Prisoner, which was read: the substance of which Charge was as followeth, viz.

**T**Has the Town of Kingston upon Hull in the County of Kingston upon Hull in England, in the 11. of Octob. 1656. and ever since unto the day of the exhibiting of this Charge, was, and hath been, and is yet a Town belonging to the common-wealth, where there is a Garrison, and a great part of the Army and Forces belonging to the common-wealth: That Sir Henry Slingsby late of Redhouse in the County of York Knight, wounding and intending to betray the common-wealth in intestine wars, the 30. of April last, and divers times since the 10. of Octob. 1656. and before the said 30. of April last, as a false Traitor and Enemy then and yet to his Highness Oliver Lord Protector of these Nations; together with one Robert Gardiner and Edward Chapman and with one William Smith of the said County of York Gentlemen, and divers others, did traitorously, advisedly and maliciously combine, together, and plot and contrive to betray and yield up the said Garrison of Hull unto Charles Stuart eldest son of the late King Charles, now an Enemy to this common-wealth.

Thus the said Sir Henry Slingsby by like traitorous combination, the said 30. of April last, and divers times after the said 10. Octob. 1656. did traitorously and maliciously plot and contrive, and endeavour to stir up mutinies within the said Garrison, to withdraw Ralph Waterhouse, John Overton, Geo. Thompson &c. Officers of the same from their obedience to his Highness Oliver Lord Protector.

Thus then and there, and at divers other times as well before as after the said 30. April last, and after the said 10. Octob. 1656. he the said Sir H. Slingsby did traitorously, advisedly and maliciously plot, contrive and endeavour to stir and raise up Forces against Oliver Lord Protector, and against the Government of this Commonwealth as the same is established, and to alter the same.

Thus the said Sir Henry Slingsby did traitorously, &c. then and there declare, publish and promote the said Charles Stuart to be King of England, Scotland and Ireland, and the Dominions thereto belonging, and hold correspondences with him. All these things the said Sir Henry Slingsby, at Kingston upon Hull aforesaid, did maliciously &c. carry on by conferring with the said Officers how to effect the aforesaid Treason, and encouraging the said Officers thereto, by promising to them and every of them rewards and summes of money to be given them in the Treason aforesaid, and by deliver-

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ing to the said Ralph Waterhouse, one of the Officers of the Garrison, a certain Instrument under Seal, which the said Sir H. Slingsby said was from Charles Stuart, and did purport to be a Commission from the said Charles Stuart, to him the said R. Waterhouse to be Governor of the Castle. All which said Treasons are contrary to the Statute in that case made and provided. With which Treasons the said Attorney General, on behalf of the Lord Protector, &c. doth charge the said Sir H. Slingsby, and prays that the said Sir H. Sl. may be put to answer thereto, averring that the said Sir H. Slingsby is the person by name appointed by His Highness the Lord Protector to be tried and proceeded against. Signed, May 25. 1658.

Edm. Prideaux.

*Lord President.* Thou here standest charged for High-Treason; This Court requires that thou give a positive answer, whether guilty or not guilty.

*Sir H. Slingsby.* I desire to have Counsel assigned me.

*L. Pres.* There is matter of Fact laid to your charge, which amounts to Treason, and there is no Law allowed in matters of Fact.

*Sir H. Sl.* There is also matter of Law; and I desire to be tried by a Jury, which is according to the Law of the Land.

*L. Pres.* We are all here your Jury as well as your Judges; we are the number of two or three Juries, and your Jury is well known, for they are chosen by the Parliament; you are to plead to your Indictment.

*Sir H. Sl.* I desire to know whether there can be any conviction, unless it be by confession?

*L. Pres.* If you had looked upon the Act of Parliament, that would have told you; it speaks of examination of witnesses, it speaks of your confession, and answer, and of your Default; and if you do not plead to it, will be very penal to you.

*Sir H. Sl.* If it be by the Laws of the Land, that the Trial should be by a Jury; I desire I may have that privilege.

*L. Pres.* Acts of Parliament make Justice and Law, they are both; they think fit to change the custom of Trials, that have been in former times, and all persons must submit to it. And the Parliament hath thought fit to make this Court both Jury and Judges; and therefore I require that you answer, whether Guilty or not Guilty.

*Sir H. Sl.* I desire that the Act of Parliament may be read.

*L. Pres.* You are before your Jury and Judges; Parliaments have great care of the Rights of the people, and have appointed this Court, and His Highness hath appointed you to be tried by us, you ought therefore to plead to your Indictment.

*Sir H. Sl.* The Law gives liberty in case of Juries to the Party accused, to make his Exceptions against the Jury, which he cannot do here, where you are but Judge and Jury.

*L. Pres.* If you have any particular Exception to any man, you may make it; you were Sir of the Parliament, when this Act was made.

*Sir H. Sl.* I was a Prisoner at the same time.

*L. Pres.* Although a Prisoner, yet you are bound by Act of Parliament.

*Mr Phelps, Clerk.* You have heard your Charge read, and Plea demanded; the Court again requires of you, that you give a positive Answer, whether Guilty or not?

*Sir H. Sl.* I am (my Lord) of an opinion, (though you may account it a Paradox) that I cannot insist against your Law, because I did not submit to them.

*L. Pres.* All the People of England must submit to the Laws of England, to the Authorities of England, all must submit to my Lord Protector and Act of Parliament.

Parliament: We sit here by Authority of his Highness, by a Commission under the great Seal of England, and by Authority of Parliament, and you must submit to our Authority.

Sir H. Sl. *The Laws have been so uncertain with me, that I could not well know them, and when I was a Prisoner I could not take notice of them, I could have no benefit by your Laws, because that is no Law to me which doth not give me interest and property to what I have; It is the benefit of Laws, that they do distinguish between meum and tuum; but when you take all from me, in my case it is not so.*

Mr. Attor. Gen. *Prideaux.* He may enjoy as much benefit by the Laws as any, if he have not forfeited it, and I desire he may be put to answer.

L. Pres. The Court again require you to plead to you Indictment.

Sir H. Sl. *Not Guilty.*

Mr. Phelps. Your Plea then is, that you are not Guilty. To which, Sir H. S. answered, Yes.

Mr. Lichmore. Mr. Attorney General having exhibited a Charge of High-Treason against this Gentleman, Sir H. Sl. the Prisoner at the Bar; The Charge doth set forth, That the Town of Kingston upon Hull, *Octob. 11. 1656.* and ever since, to the time of exhibiting of the Charge, was a Town of this Common-wealth; and that within that Town, in all that time, there is, and hath been a Garrison, and part of the Army of this Common-wealth; and during that time *Ralph Waterhouse, John Overton, George Thompson, &c.* were Officers of the Forces of that Garrison. That Sir H. *Slingsby*, minding to imbroil the Common-wealth in war, *April 30. last*, and divers other times since, *Octob. 10. 1656.* as a false Traitor and Enemy to His Highness the Lord Protector, did plot contrive and endeavor to betray the said Town and Garrison to *Charles Stuart*, an Enemy to this Common-wealth. It sets forth further, that Sir H. *Slingsby*, the time and place aforesaid did contrive and endeavour to stir up mutinies among the Souldiery of that Garrison, and to raise Forces against this Common-wealth; And that he did Publish and Declare the said *Charles Stuart* to be King of England, Scotland, and Ireland, &c. And hath held Correspondence with him. And that he delivered to the said *Ralph Waterhouse* a certain Instrument which he said was a Commission from *Charles Stuart*: All which Treasons are contrary to the form and effect of the Act of Parliament; and the Prisoner having pleaded Not Guilty, which Plea is Recorded, we are ready to prove him Guilty, and ready to call our witnesses.

Mr. Attor. Gen. You have heard the Charge and Plea, Not Guilty, it rests upon us to prove it to you. This Gentleman himself (I believe) when he hath heard them particularly opened, will be convinced that of these Acts he hath been Guilty. It would not have been expected from him to have tasted of the mercy of this Court: For had he had justice done formerly, he had not been to have answered this here. I do believe it was expected from those that did govern, to have got him off by mercy, not to take him off by justice; but he ceaseth not to interpose on the behalf of *Charles Stuart*, and endeavoured to bring him in again, and had like to have withdrawn the faithfull Officers of that Garrison to betray their trust, if money would have done it, that was not wanting to be offered; if preferment would have wrought upon them, that was proffered; if hopes of higher preferment under *Charles Stuart* would have wrought upon them, it would have been done. But to our witnesses.

*Ralph Waterhouse* sworn.

Mr. Attor. Gen. What discourse had you with Sir H. *Slingsby* touching the delivering up of Hull?

Mr. *Waterb.* I had several discourses with him. Particularly, about the latter end of December last, being a hunting; Sir H. *Slingsby's* Son came to me in the field.



field, and told me his Father presented his service to me, and gave me a Book which I looked on about an hour after, and found it was a Printed Book; at the beginning was a paper thus written, *Put this out with your finger, and then tell me whether Rob. Gardiner had not spoke to me to serve the King, &c.* presently after I acquainted Col Smith, who advised me to discover if I could whether Sir H. Slingsby was carrying on any Plot. I went to Sir H. Slingsby, and Sir H.S. took me to the window side, and hugged and embraced me; and asked me if Robert Gardiner had not spoke to me to serve the King: And then began with a great many good words, and said that one (meaning His Highness) had put a disrespect upon me, and if I would I might right my self, with many other words; and promised me a sum of money to secure the South-house for the service of the King. About a week after he sent the Book again, and in the same leaf wrote a few lines more, which I also shewed to Col. Smith; he promised me 5000 l. in land or money here or elsewhere: I made many Queries, and told him I thought it was to no purpose; he told me that if that House were secured, in a little time he would bring an Army to besiege Hull, and then half our work would be done. He after sent me another Paper which was to this purpose, That if the Governor sought for him, he would give security for his peaceable living; and said, if I would give him a Piece, he would make it twenty if he did not procure me a Commission from C. Stuart within fourteen daies; he said further, that a great party were in engaged in Scotland, upon the second of April he delivered to me a Commission, which he said was from the King, and the Commission being read in Court, the said Mr. Waterhouse averred it to be the same he received of Sir Henry Slingsby, and which ran thus,

C. R.

**C**harles by the Grace of God (with the old usual Title, &c.) To our right Trusty and Well-beloved Maj. Ralph Waterhouse; We do by these presents constitute and appoint you to be Governor of the Castle and two Block-houses near Hull, and to put such a Garrison of Horse and Foot therein, as you shall judge necessary for the defence of the same; and to command the said Garrison as Governor thereof, and to do all things necessary for the preservation of the said place. Given at Bruges, March 12. 1657.

Sir H. Slingsby also said to me, that he had spoken with Capt. Overton, and promised to furnish him with money to lay in provision, and engaged by a Bond to repay such money, as I should lay out for the victualling of the South-house. And also read a Letter from C. Stuart running thus, *I can never be enough sensible of your favors, &c.* I demanded how the Army should come; he answered, that the Duke of York had 7 or 8000 men, that the King of Spain would furnish them if there was a place of security, and asking him what way of correspondence he had with C. Stuart, he said he had a way of having Commissions from C. Stuart which he would not discover. Here Sir H. Slingsby stood up and disowned any such expression.

Mr. At. Gen. What Officer were you Mr. Waterhouse?

Mr. Waterb. I have the command of a Company, and of the South-Block-house.

Mr. At. Gen. Mr. Waterhouse, what Letter was that Sir H. Slingsby sent to his Son?

Mr. Wat. The Contents were thus, That Harry would speak to the two men to be very importunate with the Twelve.

Sir H. Slingsby promised so many men. That he offered Capt. Overton 20 l. to raise Forty men.

Mr. At. Gen. How many men did he tell you should be at Paul near Hull?

Mr. Wat. 600 to march into Hull.

Mr. At.

Mr. At. Gen. What then did he tell you *Andrew* would raise?

Mr. Wat. He said *Andrew* would raise 50 or 60 men when he pleased; and that Capt. *Overton* should have a deputation to command the Castle under me; he said he had good hopes of Col. *Smith*, and that he had a Commission for him if he would accept of it.

Sir H. Sl. This which is here spoken in seriousness, was then spoke in mirth, a meer Discourse as those that are in good fellowship may have, and what I said or did was but in jest.

L. Pres. There ought to be no good fellowship in Treason.

Mr. Wat. I never visited him but by Col. *Smith's* Commission. Sir H. *Slingsby* according to his Engagement upon receipt of a Piece gave me another Commission running thus; *Oliver Lord Protector, &c.* took it again and burned it.

Mr. At. Gen. Sir *Henry*, was it you that filled up that blank Commission?

Sir H. Sl. It is more then any man knows: But it is not the Commission I gave *Waterhouse* which is dated 12 March, 1657.

Capt. *John Overton* sworn.

Mr. *Phelps*, shewed him the Commission dated 12. March, 1657.

Mr. At. Gen. Did you see that Commission delivered to *Waterhouse* by Sir H. *Slingsby*?

Capt. *Overton*. Yes, I did, he delivered it to him in the Castle, about the second of April last.

Sir H. Sl. Mr. *Overton*, what date did that Commission which I then delivered, bear.

Capt. *Overton*. This is the same Commission, and (having it in his hand) I here see it is dated 12. March, 1657.

Sir H. Sl. I deny that the Commission I then delivered did bear that date.

*Waterh.*

*Overton.* } My Lord, We are upon our Oaths.

C. *Overton*. I saw Sir H. give it to Major *Waterhouse* in his own Chamber in the Castle of *Hull*, and Maj. *W.* bid me read it, which I did.

Sir H. Sl. Was that Commission which you read dated 12. March?

Cap. *Overton* reads the copy of it which he then wrote from the original, which agreed with this.

Sir H. Sl. I deny that the Commission then delivered was of that date.

*Waterh.* }

C. *Overton.* } Both deny the altering of the date.

Sir H. Sl. Maj. *Waterhouse* desired me to alter the date of the Commission, and I scraped out April and the day, and put in March.

Capt. *Overton* Examined.

Mr. At. Gen. What Treaty was between Sir H. and you at *Hull*? are you an Officer there?

C. *Overton*. Yes.

Mr. At. Gen. How long have you been an Officer there?

C. *Overton*. About ten years.

Mr. At. Gen. What proceedings was there between Sir H. and you? What meetings had you? &c. was he your prisoner?

C. *Overton*. He was my Prisoner; The first time he spoke any thing to me was on 18 Febr. last, when he told me, he thought me the strictest man alive with Prisoners, but now would believe the contrary; said, that I searched a man of his for a Letter, but afterwards to prevent me he gave his Letter in a Purse with some money to his Landress who carried it into the Town, and sent it away, and after that (he told me) I never found any Letter. I told him if he wanted any thing necessary I would go to the Governor about it; he told me it was not much for that, but that I might very much besfriend him. He wrote

wrote to me, that a Colonel (naming him) was engaged to bring money from the King, asking whether I knew my men were right for me, and particularized one *Clark*, I told him he was right: he asked me what I thought of 100 *l.* to give them, I told him they did not use to have such great Gratuities. This was 18 Febr. 1657.

28. Febr. He asked me where the Sallyport was, I told him it was twenty yards from the Castle. He told me, some Prisoners not long ago intended to make an escape that way, but were prevented, and asked me which way I entered into the Castle, which way I could let in any men into the Castle. That I should not want money; whether I could tell how to victual the Castle; he would be glad if I could do it. He told me that the King kept his designs so close that none knew of them, and that it was not known whether he would land at *Hull* or *Scarborough*.

3. March. He asked me whether I continued my Command, I told him I knew nothing to the contrary, to which he shewed much gladness; he told me *Duke Daffy* was to bring a considerable party, but said so long that the rest were gone. 6. March he asked me what news, and said that *Chapman* had assured his Son the Town was too strong for the Garrison, and asked me who I knew in the Town to be right, I told him *dw. Chapman* was not for the Sedition.

March 14. I told him, that his old Master *C. Stuart* was about to set sail with 7 or 8000 men. He said, that the King was more private then to let any man know his design: But asked me, whether I was ready to receive him?

March 23. Sir *H. Slingsby* being below in our chamber, told me that I had a fit opportunity to receive such men as might be right for me. I told him, I thought I could not have half my number. He told me, he was glad I would serve the King; and said, that if he had any favour from the King, I should not want any thing: He told me he had assurance, that any that assisted the King, when he first came to kiss his mother Earth, he would give them 4 or 5000 *l.* That he would furnish me with money; And desired that I would not shoot any great Bullets at King *Charles's* men when they were landing: And further told me, that if I would take a Deputation to command under Major *Waterhouse*, he would procure it. On April 2. Sir *H. S.* told Major *Waterhouse* that he had a Commission for him to be Governor of *Hull*, and I saw him deliver a Parchment-Commission to Major *Waterhouse*.

Mr. At. Gen. If Sir *H.* hath any thing to object, he may.

Sir *H. S.* I see that I am trepan'd by these two fellows; They have said that seriously against me which was spoken in mirth between us; I never sought to them, but they to me; the Commission was procured by no intercourse with any persons beyond the Seas, but a blank which I had for four years together. Nor had I any correspondence beyond Sea to carry on any design here.

Lieutenant *George Thomson* sworn.

Being asked what Officer he was, he answered, I am a Lieutenant to Major *Waterhouse*, I was desired to go and see Sir *H. Slingsby* 16 April, who told me That he had great confidence in me, I said to him, why? He told me he thought I had good thoughts of the King; his Son told me he heard the King was to come in, and to bring in a considerable Army, but knew not when. Next day I went again to Sir *H.* and asked him if he would walk on the Leads, which he did, and there I told him I had been pondering on the words he last spoke to me, who then hugging me said, I have a great deal of confidence in you, there is a design in agitation to bring in the King with a considerable Army, but he did not know how soon it would be, but tell me I should have notice of it, and said that the King had promised pardon to all Officers but the Lord Protector and Lord *Bradshaw*.

Sir *H. S.*

*Sir H. S. I thought such the discourse; but*  
Waterhouse spoke to me that I would speak to Thomson to try whether he would be assistant, but I told him I would not, lest he should not accept it, and then turn him out of his place. Waterhouse pressed me to go to Thomson, and M Waterhouse invited us to his house to Dinner, after Dinner he spoke to Thomson to go with me on the Leads to shew me the Guns, we walked about, and came down again, then said Waterhouse to me, did not you speak to Thomson? I said not: you had a good opportunity, said he. At last Thomson came to me, and I had some discourse with him about it.

L. Pref. Sir H. S. have you any thing else to say?

Sir H. S. No, my Lord.

Then Mr. Mr Serjeant Maynard summed up the Charge, Plea and Evidence, and eloquently set forth the fulness and clearness of the Evidence with the heynousness of the offence, and demanded the Judgment of the Court.

Mr. At. Gen. I shall not trouble you with repetition, the matter being clearly laid open; the place where this acting was, and where the design was laid, was, I may safely say, the most considerable place in England for Charles Stuart's design; a place strongly seated and situated and remote from this City, and had he prevailed there, as he endeavoured, it had not been peace with us that now are here: And truly my Lord, I cannot but pity those Gentlemen that are thus drawn into designs which I am confident will never take; and I am sorry that people should be so seduced as they are, for their seducers bring them to the Gallows, and then laugh at them. And (my Lord) I pity this Gentleman (pointing at Sir H.) that those gray hairs should thus go to the Grave; I have no more to say, but crave the justice of this Court.

The Serjeant at Arms was commanded to take away the Prisoner.

Proclamation for adjournment of the Court into the Painted Chamber.

After a little private Debate in the Painted Chamber they adjourned till Thursday next nine in the morning.

Thursday May 27. being appointed for the meeting of the same Court, about ten of the Clock they accordingly met in the Painted Chamber Westminster; where after about two hours private debate they adjourned till Tuesday next, the first day of June.

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T H E

# The Substance of Doctor HEVET's Trial On Tuesday the first day of June, 1658.

**T**H E Serjeant at Arms being commanded by the Court to fetch the Prisoners to the Bar, Dr. Hewet was brought to the Bar accordingly.

After Proclamation was made for silence, the Lord President asked Mr. Attorney Gen. what he had to say against the Prisoner at the Bar. Mr. Attorney Gen. thereupon exhibited an Impeachment of High Treason against the Prisoner, and desired it might be read, and prayed that the Court would please to receive his Answer thereunto. The Charge was read by Mr. Phelps the Clerk; the effect of which was as followeth, viz.

That John Hewet late of the Parish of Gregorie's in the City of London, Doctor of Divinity, minding and intending to embroyl this Common-wealth in new and intestine Wars, the 30. of April now last past, and at divers times since the 10. of October, which was in the year of our Lord 1656. and before the said 30. of April last past, as a false Traitor and Enemy to Oliver then and yet Lord Protector of the Common-wealth of England, Scotland and Ireland, and the Dominions and Territories thereunto belonging, and to the said Common-wealth, together with one Prelamcy late of London Gent. Henry Bishop of Lewis in Suffex Gent. and other their Complices at the Parish of Gregorie's aforesaid, and at Lewis in Suffex, did traiterously, advisedly, and maliciously plot, conspire, and endeavour to stir up force, and levy war against the said Oliver Lord Protector, and against the Government of this Common-wealth, as the same is now established, and to subvert and alter the same. And did also then and there, and at divers other times and places, as well before as after the said 30. day of April now last past, and after the said 10. of October, 1656. traiterously, advisedly, and maliciously declare, publish, and promote Charles Stuart eldest Son to the late King Charles, to be King of England, Scotland and Ireland, and the Dominions thereunto belonging. And did then and there traiterously, advisedly, and maliciously hold intelligence and correspondence with the said Charles Stuart. All which said Treasons he the said John Hewet in the Parish of Gregorie's in the said City of London, and also at Lewis and elsewhere, did traiterously, advisedly, and maliciously declare at the times and places aforesaid, by conferring with John Smapley and Henry Mallory how to effect the same; and by encouraging the said John Smapley and Henry Mallory thereunto; and by delivering Commissions to them from the said Charles Stuart concerning the levying War against the said Oliver Lord Protector of the Common-wealth of England, Scotland, and Ireland. All which said Treasons are contrary to the Statute in that case made and provided. With which said Treasons committed and done, the said Attorney Gen. for and on the behalf of his Highness the Lord Protector and the Common-wealth, doth charge and impeach the said John Hewet; And for and on the behalf of the said Oliver Lord Protector and the Common-wealth prayeth that the said John Hewet may be put to Answer, that such Trial, Judgement, and Proceedings may be had against him as to Justice doth appertain. And the said Attorney Gen. hath averred that the said John Hewet is the person by name appointed by his Highness the Lord Protector to be examined and proceeded against according to the Act.

Dr. Hewet the Prisoner sitting covered whilst his Impeachment was reading the Lord President commanded his Hat to be taken off; which the Doctor observing took it off himself. Then Mr. Phelps Clerk to the High Court address'd to the Prisoner to this effect:

Mr. Phelps. John Hewet D. D. Thou standest here charged of High Treason; this Court requires you to give your positive Answer, whether guilty or not guilty.

Dr. Hewet. My Lord, If I have already misbehaved my self here, my error is the more pardonable, because I have not had any Counsel; and I dare not presume to have any knowledge in any faculty, especially in the Law: I never did change my Cassock into a Jump; I am better acquainted with a Pulpit than a Bar; better read in St. Austin than my Lord Coke, and in the Fathers, than Rastal's Reports, or Plowden's Commentaries. In all my life I never studied any Law-case till now; that Necessity that hath no Law hath made me thus far to become a Lawyer; as to think to plead (not for my Liveliness, but) for my Life. God forgive them that have occasioned this unusual and unaccustomed thing; that hath put me into such a Pulpit as I never saw before. And therefore (my Lord) in as much as I have often heard that there are such niceties in the Law that a man may be lost in the severity of it for a word spoken in mere simplicity; I shall crave that there may be nothing taken, in prejudice to my innocency, from words spoken in simplicity: And I hope you will please to grant me that.

Lord Presid. Dr. Hewet, I am sorry, truly, very sorry, to see such an one as you in that place; but you are impeached of High Treason: All favour will be shewn you according to the rules of Justice. I think you desire Counsel.

Dr. Hewet. No (my Lord) it is first, that I, knowing nothing of the Law, may have nothing (simply spoken) prejudice me: and that you will allow me Counsel.

L. Presid. The Court is Counsel for you, your business is to plead to the Indictment; you are required by the Court to answer whether guilty or not guilty.

Dr. H. My Lord, you sit there as Judge, I beseech you to let me know by what Commission you sit there.

L. Pres. Dr. Hewet, we sit here by a Commission under the Great Seal of England, in pursuance of an Act of Parliament; that's our Commission.

Dr. H. Pray give me the favour to have the Commission read, my Lord.

L. Pres. D. H. We know our owne Authority, it is not usual to read Commissions to Prisoners; the Laws of England and Acts of Parliaments are to be submitted to.

Dr. H. I am not to own every person that will sit to judge me, therefore I desire to know by what Commission you sit, and who are the Judges, and then I shall say more.

L. Pres. Those that are to judge you are very well known, you consented your self to the Judges, we are all chosen by Act of Parliament, the Parliament hath consented to it; we are chosen Judges, and are your Judges by Act of Parliament.

Dr. H. My L. I must know the persons, whether they be all here; I see but very few.

L. Pres. Here be very many; and we have been all called this morning, as the course is, and we sit now as your Judges.

Dr. H. Under favour, my Lord, as I remember, the Commission by the Act is directed to 150. and there are the Lords Commissioners of the Great Seal; with the Lords of his Highness Treasury, and all the Judges, and divers other persons are named in the Act of Parl. I do not see so many faces as are mentioned in that Act.

L. Pres. Dr. Hewet, I must tell you the Quorum is any seventeen, or more of them; if we are here seventeen, or more, we are a Quorum by that Commission: We are here I believe forty or fifty.

Dr. H.



Dr. H. *My Lord, with submission, the case is new, & since the Commissioners were but seventeen, and they all present, then they might hear and determine; but if one were absent, they cannot; my Lord as I conceive, yet*

L. Pres. *You are a person of parts, and therefore we may delight to hear you; but we must keep our selves to the business of the Court: You are required by the Court to answer the Impeachment.*

Dr. H. *My Lord, if you sit by the Act, sit according to the Act, and then I shall submit. It was resolved by all the Judges of the Kings Bench in the 13. of Eliz. in the Earl of Leicester's Case, see Plowden fol. &c.*

Mr. Att. Gen. *The Doctor did profess his ignorance in the Laws, yet pretends more knowledge than the Court: The Court are here, and know themselves lawfully authorized to try you. Dr. Hewet, if you please to proceed to give your Answer whether guilty or not, you will find the Justice of the Court to be according to the Laws of England.*

Dr. H. *This learned Gent. I know his face, though not his name; he speaks according to worth, but I cannot answer him according to Law, and therefore still plead ignorance of the Law, but desire to be tried according to Law; and I have given you a Law-president, if you will go against it, I shall say no more.*

Mr. Att. G. *This Gent. hath it by Tradition, not by his owne knowledge; but the Case he mentions cannot parallel this: The Act of Parliament saith, an hundred and fifty, or any seventeen; here are three seventeen.*

Mr. Sol. Ells. *I think the Commission is directed to your Lordships, or any seventeen: [Which Commissioners, or any seventeen, &c.] The meaning whereof is, that those seventeen, or more respectively, should hear, &c. There were several Quorums for England, Scotland and Ireland: 17 for England, 13 for Scotland, &c. That Case out of Plowden, differs clearly from this: For, if a Commission be directed, and there be no Quorum, then the Commissioners must all certify. We humbly conceive that if your Lordships be here seventeen, or more, you are fully authorized to proceed.*

Mr. Att. G. *In many Cases you have a Quorum of persons, such and such men. It's true, here is no Quorum of persons, but a Quorum of the number; and if there be a Quorum of seventeen it is warrantable.*

Dr. H. *This learned Gent. he is better able to speak what is Law than I; but under favour, and with submission, I do not think he may judge of the Laws, or the other (that spoke his private conception) to interpret the meaning of the Parliament. And (my Lord) if your Lordship please, I shall make this my humble appeal to the learned Judges of the Law; That if they will say in this respect that they are lawful Judges, I shall proceed.*

L. Pres. *You have heard the words of the Act of Parliament read, & as opportunity is given to the Commissioners, or any seventeen or more of them, which said Commissioners respectively; that is, for England Seventeen, for each of them, and you have heard the judgement of the Court upon that: That which you speak of in relation to my Lord of Leicester's Case is true; if a Commission be directed to Commissioners, and no Quorum appointed, then all must certify: But by the Act of Parliament, and the Commission made in pursuance of it, the Quorum is seventeen: But here are three Quorums.*

Dr. H. *My Lord, in as much as all the Commissioners are named in that Act, and that Commission is according to the Act, they are all commissioned together, & therefore all sit the rest cannot try and examine, &c. And I shall refer it to the Judges of the Law.*

L. Pres. *We did not call our selves to be your Judges, by being named, your Judges by Act of Parliament, we have power to declare to you what the Law is by that Act of Parliament, I have declared it.*

Dr. H. *My Lord, if the Quorum had been named, then it were somewhat; but it being directed*

directed to, &c. or more, when more or 17 are Commissioned all must sit; I refer it again to the Judges of the Laws.

L. Pres. Dr. Hewet, what you say now, or what you say hereafter besides this you have time to speak to, as to matter of Law, after matter of fact hath been tryed; if you plead to matter of fact, what you say to the Court as to matter of Law, we shall be ready to hear it, apply your selfe to the Court in matter of fact. The Court asks you whether guilty or not.

Dr. H. My Lord, I must first know whether the Court be a lawfull Judicature before I give my defence.

L. Pres. Dr. Hewet, you have offered very much touching the jurisdiction of the Court, in conclusion you must acquiesce; I must put you up to plead, you know the danger if you doe not plead being required; you stand mute and doe not plead, it is as equally dangerous to you as if you had confessed the crimes.

Dr. H. I am so highly sensible of the privileges of an Englishman, that both for the satisfaction of my own conscience, and all persons, that I would not willingly give up the liberties and privileges of any English freeman to any body that demands it; I am very loth that there should be any aspersion laid upon me, that I should seek a disturbance in point of selfe-interest to divide my selfe from the Communion of those that are my fellow-freemen; and I should, as I have always abhorred to be both a Schismatick from the Church, and singular from the State. My Lord, I am so concerned for the privileges of an English freeman, and publick interest, that I should be loth to doe any thing towards the giving them up, that might make my heart ache. I shall desire it may be determined by the Judges.

L. Pres. You speak of common friendship; what is common friendship, but to be a friend to the publick Government? if you have been a friend to the Government and peace of this Nation, you need not fear to plead to the Indictment: And therefore I require you to plead to it.

Dr. Hewet. When ever you shall come to a particular Examination of the business, it will not appear that I have been an Enemy; I desire that whereas there are many necessities in the Laws, I humbly crave the engagement of your Honours, that there may not be any advantage taken.

Mr. At. G. God forbid.

Dr. H. My Lord, I think I have not spoken any thing unreasonably, or against Law, and therefore humbly crave my former request.

Mr. At. G. If you please, the Dr. knows that there must be a Judgment in which we must acquiesce: This is that Judicature that calls you before them; you sit by the highest Authority of England, an Act of Parliament in the first place, a Commission under the great Seal in the second place, and a Commission of his Highness against whom, of which the Doctor is one; I desire he may give an Answer to the Impeachment, that being done, we shall have liberty on both sides to speak as what is Justice, and Law, and Fact; if you are not guilty, be you assured that this Court will not take your blood upon them, you have a very fair Court.

Dr. H. This learned person speaks very fairly, it shall be far from me to question any Act of a lawfull Parliament; but under favour, as yet it doth not appear to me that you have by that Act by which you sit, power to hear and determine concerning the matters of which I am charged; I referre it, and appeal again and again to the learned Judges of the Laws, even his Highness's Judges.

L. Pres. Dr. H. The Court hath had much patience in hearing of you thus long, you having not so much as owned their Authority; if you will not own us, we will own you; therefore I require the Clerk to enter it, that we have required you to plead.

Mr. Phelps Cl. John Hewet, you here stand charged of High Treason against his Highness the Lord Protector, and the Common-wealth; the charge hath been read

to you, the Court have demanded whether guilty or not guilty, they again demand of you whether guilty or not guilty.

D. H. *My Lord, I shall be very loth to do any thing to save my life, and forfeit a good conscience: And I shall not for my private interest give up the Privileges of those that are equal Freeman with my self: I am look'd upon in a double Capacity, as a Clergy-man, and as a Common-wealths-man; I should be very loth to be scandalous in either: And pray be pleas'd to do that justice to your selves as to vindicate the legality of your Judicature, and then Ple proceed.*

Mr. At. G. *My Lord, you was pleas'd to tell the Doctor, that you will own him when he doth not own you, but, my Lord, his flying in your faces, and taxing you thus is not to be endured; I wish he would have that consideration of himself, that if he doth not own your Authority, you expect to be owned, and by it he will be supposed to be guilty of all those Crimes that are laid to his charge, and by not pleading he doth confess them; that will be an high scandal to Mr. Doctor; Therefore to vindicate your self, I desire you to answer.*

Dr. H. *This learned Gent. hath urg'd it with a great deal of civility and respect to me, which I must own and thankfully acknowledge; but (my Lord) withal, I dare not for the saving of my self give up others, so many thousands of others; by my Precedent, that might likewise be involved in the same condition that I am in; therefore (my Lord) let it appear that it is a lawful Judicature, and I have done.*

Mr. At. G. *I beseech Mr. Doctor to consider his case, he is not brought as a Champion for the people of England, as he stands charged he appears to you to be contrary affected; I humbly beg that he would be pleas'd to plead, that so his innocency may be clear'd.*

Dr. H. *My Lord, I said before that I am no Lawyer, I understand nothing of it, neither desire to be Judge in my own cause; but I do not desire likewise to be judged by every person that would sit to judge me, neither would I give up that right that belongs to an Englishman to every one that demands it, therefore I desire you to grant this Petition; that you will make appear that you are a lawful Judicature. I would rather die ten thousand times then I will be guilty of giving up my fellow-freemens liberties and privileges.*

Mr. At. G. *My Lord, some of his own Coar have acknowledged the like Authority before him; but if Mr. Doctor be peremptory in this that he will not own your Authority, and plead to his charge, I must do my duty, that is, humbly to pray the Court, that if he refuse to answer, I must pray their Judgment, and acquaint him with the words of the Act; which accordingly was read. So that, my Lord, in default of Answer, if Mr. Doctor will not plead to this, my Lord I must thereupon pray that you will proceed according to the Act, as in cases of High Treason, which is very penal. I have no more to say.*

Dr. H. *My Lord, I suppose these learned Gent. who are so learned in the Laws will be cautious in what they do against Law, and I hope they will remember what condemnation and execution befell Trecilla in the 11 of Rich. 2. that there did misadvise the King to do such and such things, that is much like to, this Case of mine: And withal I hope they will remember what befell the Judges in the Case of Shipmoney in the time of the late King, and therefore I hope they will be cautious themselves in doing any thing that is contrary to Law.*

L. Presid. Dr. H. *you have heard the Clause of the Act of Parliament read to you, whereby you may understand, either we must proceed upon your Answer, or else to Judgment upon your refusal; if upon your answer you clear your innocency, then those freemen that you speak of may faithfully embrace you; but if you will not answer, we must proceed to Judgment; I am sorry for your Robe sake, but if you will not answer, you cannot acquit your self, you thereby confess it: therefore let me advise you for your Robe sake to follow the best Counsel, that is, to put your*

self upon that which Prisoners must do: Answer to it, guilty or not guilty, say 03  
 Dr. H. My Lord, I hope it is not the sense of the whole Court that they should proceed  
 against me, either to sentence or any other way, till first they clear themselves to me.

Mr. At. G. Pray who is the Judge? you must clear your self to him.  
 L. Presd. If there be any here that are of another opinion, let him declare him-  
 self: Dr. H. you lose your self mightily in saying this one thing so often, and we  
 lose our time; I require you again to plead.

Dr. H. My Lord, I cannot speak of that too often that is so dear and precious to me and  
 every person.

Mr. At. G. I can say no more but pray your justice.

L. Presd. Doctor Hewet, I am called upon by the Court, because of your refusal to  
 answer, but I pity you very much, and therefore desire once more the patience  
 and favour of the Court, that they would give you leave to answer; therefore Mr.  
 Doctor, that we may not record your standing mute and refusing to answer, I shall  
 once more in favour to you require you to answer, Clerk, stay your hand a while.

Dr. H. My Lord, both the Court and all these persons will thus clear me to the whole  
 world, that I have referred my self and appealed to his Highness Judges of the Law to re-  
 solve whether this be a lawful Judicature; this Appeal is denied, therefore I must proceed  
 to some other thing seeing you all deny me that.

Mr. I helps Cl. J. Hewet D. D. you stand here charged on behalf of his High-  
 nes the Lord Protector, of Treason against him and this Common-wealth, you have  
 heard the Charge, the Court hath several times demanded your answer, and you  
 refuse; they the third time require your answer whether guilty or not guilty.

Dr. H. Pray my Lord is there any Indictment found against me by a Grand Jury, by  
 which I am to be tried? For by the fifth and sixth of Edward the sixth, all Treasons are  
 to be inquired into and presented by twelve men; the Commission by which you sit doth not  
 declare any other way: I beseech you is there any other Indictment?

L. Presd. You have a very great Grand Jury, forty persons, and we have power upon  
 a special Act of Parliament to give order for a Charge to be brought in against you,  
 and we have according to that power and Authority given order for this Charge to  
 be brought in against you, and you are to answer to it.

Dr. H. My Lord, with submission you are not a competent Jury.

Mr. Attorney Gen. My Lord, now it is the second part to the same tune; I know  
 there are many others upon the same string when this is resolved; Sir, This is the  
 Grand Jury, the Petty Jury, and your Judges; they require you to give your Answer,  
 whether guilty or not guilty.

D. H. My Lord, this is likewise denied me, I now humbly crave a copy of my Charge,  
 time to answer to it, and Counsel assigned me.

L. Presd. For the copy of your Charge it was never granted to any Prisoner in-  
 dicted for High Treason; For Counsel, you are now upon matter of Fact, whe-  
 ther guilty or not guilty.

Mr. At. G. I have a word to inform him, I would not prels any thing  
 against him which in my Judgment I thought not legal, you have given him your  
 resolution as to the Jurisdiction, there is nothing now to say but guilty or not  
 guilty; he must bring himself to be a party or else nothing can be asked.

Dr. H. I think the Prisoner cannot be charged and tried on one and the same day, no  
 more than a man can be indicted and tried the same day, as in Calway's Reports; and  
 this was declared to be Law in the Case of the Portugal Ambassadors Brother.

Mr. At. G. You are not upon your Triall, you must plead and joyn issue, and then  
 we will consider whether we will try you now or no; Yet there is many a man hath  
 been brought to prison the same day, found the same day, and tried the same day.

Dr. H. I desire a copy of my charge, if not that, I desire time to speak, and Coun-  
 sell assigned me, which hath been the course of former times; for Counsell it hath been  
 usually

usually allowed, as in the case of Humphry Stafford in the time of Henry the 7. and in the case of Lilburn, Baron Nicholas, and Serje. Maynard were of Counsell for Major Rolph, who indeavoured to payson the late King: and for matter of Law, it ought to be allowed, as in my Lord Cook's case, which Dyer hath book of his Reports, 14 fol. is of the same opinion: Arundell had Counsell assigned him for murder, in matter of Law.

Sol. Bliu. For matter of fact it was never allowed; but if he plead, and if any matter of Law do arise, that's doubtfull to the Court; then the Court if they doubt of it, assigne Counsell; but the prisoner must plead first to the matter of fact. For a man to be accused the same day, and tryed the same day, is no new thing: For Counsell, if any thing arise in matter of Law then it may be considered: The Portugal Embass. Brother came, and was accused and tryed the same day. We shall humbly pray that he may plead guilty or not guilty; if any matter of Law arise your Lordships may doe him justice.

Dr. H. My Lord, with submission, this learned Gent. hath understood me but in part; my request was for Counsell for matter of Law in generall, as well as particular for matter of fact. I humbly conceive that there are severall Acts of Parliament that doe free me from this charge, and particularly the great Charter of England; for which I humbly crave I may have Counsell assigned me.

L. Pres. You are now in generals, you speak of severall Acts of Parliament, and you would have Counsell to plead, Counsell was never allowed in this case upon such a general desire; Many that stand about you may have a prejudice to you, and think you are loth to plead; I have called upon you oftent: if we should once record the refusal, it would be very penall. I would advise you to plead to the Indictment.

Dr. H. My Lord, since you have denyed me Counsell, I shall desire to speake something in my own behalfe.

Mr. At. G. This is a very ill President to the justice of England; I suppose that you will allow that all favours, but the justice of England must be prefer'd against all persons whatsoever: The jurisdiction is settled to the satisfaction of the Dr. himselfe; if he will bring himselfe a party and aske any thing of you, that must be by pleading, till then he can aske nothing.

Dr. H. My Lord, the Indictment is not yet clea'd to me, for the legality of it, and if you please to give a little patience I shall give you the reasons why.

Mr. At. G. I shall desire it may be no more thus.

Re. I shall say no more to you; we must make our Authority appear to you either by trying of you, or judging of you; will you be try'd?

Dr. H. My Lord, the Charge depends upon an Act of Parliament which was made about two years since, the Members of which Parliament were chosen by the people, yet notwithstanding one hundred and fifty of them were not permitted to sit.

Mr. At. G. My Lord we must not suffer this, pray if he will not be otherwise satisfied I must require your strict justice. Your words they are seditious: this shews the spirit of the man.

Dr. H. I hope you will have patience to heare me for vindication of my selfe, and satisfaction of my own conscience and all persons whatever, and withall, for the clearing of your selves, that you doe not bring blood upon your selves by asking that power that is not justifiable.

Mr. At. G. Truly my Lord this is insufferable; Mr. Doctor hath had as much respect as ever any had. I have attended many, I never saw the like in my time; you have had the patience to heare him oppose your selves, your Authority, your persons, and to strike at the root of all. Mr. Doctor I would have you to carry your selfe with more respect. I his shews that much of what is charged against him is true: If you will scorn the Court say it positively.

Dr. H. My Lord, I humbly submit my selfe to the Lawes of the Land; I shall not dispute



Acts of Parliament, but I conceive (if you will please to give me a little patience) an house of Commons is not of Authority enough.

L. Pres. Mr. Doctor pray remember that Texts, *He that seemeth to be Religious and brideth not his tongue, his Religion is vain.* Will you plead or not?

Dr. H. My Lord, whilst I speak for the Laws of the Land this is not an evil speech.

Mr. At. G. My Lord, if you please, I did receive your commands to prepare this charge against this Doctor; in obedience to you I have done it, nor willingly against your person Mr. Doctor; I have some others to proceed against, if you will please that Mr. Doctor may dispatch one way or other, I must pray your final sentence if you doe not plead immediately.

Dr. H. My Lord, what I petitioned for before I doe again, that seeing you will not please to give me leave to speak either as to the priviledges of English men, nor as to the Act, I desire time to speak to the Charge, and Counsell.

L. Pres. You have heard that I must require your answer; you must plead guilty or not guilty.

Dr. H. Hath your Lordship assigned me Counsel in matter of fact when matters of Law arise?

L. Pres. We shall then take consideration of it, now is not a time.

Dr. H. My Lord, I am in a great strait, I pray God assist me, and I here appeale to Almighty God and to all the world, that I doe against my soul and conscience nothing that shall be to the prejudice of the priviledges of the Laws of England; if there shall be any thing in these proceedings that shall be to the disadvantage of others, my soul be clear of it, the guilt be upon others; seeing I am necessitated upon this, and cannot have Counsell assigned me for the judicature, for the legality of it; I referring my selfe to the Judges of the Land, I durst refer my selfe to his Highnesses own Counsell, that if they will say that this particular that I have urged, that this is a lawful judicature, I will go on.

L. Pres. I am required by the Court, before I enter your verdict I require your answer.

Dr. H. I am in a great dispute, and I pray God direct me what to doe in this case, though I doe not at all dispute my own innocency, which I hope I shall clear; yet I could petition again (though I am tedious to you, yet I can never importune enough) to take into your thoughts your selves and posterity and all the people of England.

L. Pres. I shall desire, because you may see what I say comes from the Act of Parliament, I shall desire the words may be read to him, what is to be done if he refuse to answer. Clerk read that clause.

[And for examination of witnesses upon Oath (which the said respective Commissioners are hereby authorized to administer) and thereupon, or upon confession of the party, or in default of such answer, to proceed to conviction and final sentence, as in cases of High Treason, and misprision of Treason, according to Justice and the merits of the cause; and such final sentence to execute, or cause to be executed speedily and impartially.]

Dr. H. My Lord, this is a printed paper which is called an Act of Parliament.

L. Pres. I must take you off, you have been required to answer, often required, and having refused, in the name of the Court I require the Clerk to record it, and pray take away your prisoner.

Dr. H. My Lord

Court: Take him away, take him away.



# The Substance of Mr. MORDANT's Trial On Tuesday the first day of June, 1658.

**T**HE Serjeant at Arms was commanded to bring *John Mordant* Esq; to the Bar, who was brought accordingly.  
 L. *Pres.* Mr. Attorney, What have you to say against the Prisoner at the Bar?  
 Mr. *Att. G.* My Lord, I have prepared a Charge of High Treason against the Gentleman at the Bar, which I desire may be read.

*The substance of the Impeachment.*

Mr. *Phelps.* *John Mordant* Esq; Stand at the Bar, and hear your Charge.  
 A Charge of High Treason against *John Mordant* of *Clement Danes* in the County of *Middl.* Esq; as followeth, *viz.*

“That *John Mordant* late of the Parish of *Clement Danes*, in the said County of *Middl.* Esq; minding and intending to embroil this Common-wealth in new and intestine Wars and Seditions, on the 30. of *April* now last past, and at divers other days and times since the 10. of *Octob.* 1656. and before the said 30. of *April* last, as a false Traitor and Enemy to *Oliver*, then and yet Lord Protector of the Common-wealth of *England*, *Scotland* and *Ireland*, and the Dominions thereto belonging, and to this Common-wealth; together with *Henry Bishop* late of *Parham* in the County of *Suffex* Gent. *Hartgil Baron*, and *Francis Mansel*, and divers others their Complices at the Parish of *Clement Danes* aforesaid, and at divers other places, did traiterously, advisedly, and maliciously plot, contrive, and endeavour to stir up and raise War against the said *Oliver*, then and yet Lord Protector of this Common-wealth, and against the Government thereof, as the same was established, and to alter and subvert the same: And did also then and there, as well before as after the said 30. of *April* last past, and after the 10. of *Octob.* 1656. traiterously, advisedly, and maliciously declare, publish, and promote *Charles Stuart*, eldest Son of the late King *Charles*, to be King of *England*, *Scotland*, and *Ireland*, &c. And did then and there traiterously, advisedly, and maliciously hold intelligence and correspondence with the said *Charles Stuart*. All which said Treason and Treasons, he the said *John Mordant* the said 30. of *April* last, and other the times and places aforesaid, and after the said 10. of *Octob.* 1656. at *Clement Danes*, and other places, did traiterously declare by overt act, that is to say, by conferring with *J. Stapley* Esq; and *Henry Mallory*, and others, how to effect the same: And did then and there encourage the said *J. Stapley* and *H. Mallory*, and others thereunto: And did deliver Commissions to several persons in the name of, and as from the said *Ch. Stuart*, concerning the raising of Forces, and levying War against the said *Oliver*, then and yet L. Prot. and against this Common-wealth. All which said Treason and Treasons are contrary to the Statute in that case made and provided. With which said Treason and Treasons, he the said Attorney G. for and on the behalf of the said *Oliver* then and yet L. Pro. and on behalf of the said Common-wealth, as aforesaid, doth charge and impeach the said *J. Mordant*. And the said Att. Gen. prayeth, That he the said *J. Mordant* may be put to answer: And that such Proceedings, Trial, and Judgment may be had against the said *Mordant* as is agreeable to Law. And the said Att. Gen. doth averre that the said *J. Mordant* is a person by name appointed by his Highness and Council to be proceeded against.

C

Mr. *Phelps*

*Mr. I helps* Cl. *John Mordant* Esq; Thou standest here charged with High Treason against his Highness the L. Protector and the Common-wealth: You have heard the Charge read; the Court demands your positive answer thereto, whether guilty or not guilty.

*Mr. Mord.* My Lord, I desire I may hear the Commission read by which you sit.

*L. Pres.* You are impeached of High Treason: We require your Answer.

*Mr. Mord.* I desire the Commission may be read, and the Commissioners names.

*L. Tr. s.* You are to be tryed by the Laws of England, Act of Parliament, and Commission under the Great Seal of England, in pursuance of that Act.

*Mr. Mord.* I claim it as my right, I am ignorant in Law, I desire it may be read.

*L. Pres.* It is not granted to any.

*Mr. Mord.* My Lord, will you take away that liberty that we shall not know by what Commission we are tryed, and who are our Judges? I desire I may not be made the first president.

*L. Pres.* It is visible who are your Judges, they are named by Act of Parliament: We are your Judges.

*Mr. Mord.* My Lord, if the Act specify any such thing that it may not be read, I have done: I desire it may be read, that I may have a legal and just proceeding.

*L. Pres.* The Act of Parliament doth not require it.

*Mr. Mord.* The Act doth not deny it.

*L. Pres.* You shall have all the privileges that may be; but you must first plead.

*Mr. Mord.* My Lord, I demand this, to hear the Commission read.

*Mr. Att. G.* My Lord, Pray let him know what is done, to warn him, lest he fall into the same condemnation. There was one but a little before you that demanded the same thing, and the Court hath ruled it otherwise, and he hath received his Sentence. I tell you of it that you may beware, and know how to carry your self. If *Mr. Mordant* will be pleased to answer whether or no guilty of those Crimes, then he shall have a fair Trial, and full Examination: If otherwise, the same Sentence must be required as before; that is, upon refusal, the Judgement pronounced for High Treason.

*Mr. Mord.* My Lord, I humbly crave the Act may be read.

*Mr. Att. G.* The Act is publick; the Court are not to give you an account of their authority, or the way of their proceedings; they require your Answer.

*Mr. Mord.* My Lord, shall I not know by what Law I am tryed, nor by what Act, nor by what Commission?

*L. Pres.* You seem to be a young Gentleman; I wish rather you would plead Not guilty, or make an ingenuous Confession.

*Mr. Mord.* My Lord, This is the first time that I have been before any Court in my life, I desire that my reason may be convinced; either assign me Counsel to argue it with this learned Council, and if they convince my Counsel I shall submit: or, if this Council will say, the Law doth debar me the hearing of the Commission and the Act read to me, I shall refer it to the Judges of the Law, and by their opinions I will stand or fall.

*Mr. Att. G.* My Lord President, You have offered that Gent. very seasonable advice, I wish he may be capable of it: And, in these debates, I wish he doth not lose those advantages that are really intended for him. For the Court, it is by Act of Parl. and no Judicature in Engl. can require any account of their proceedings.

*Mr. Mord.* My Lord, Pray give me leave to ask this question, Whether there be any president for this?

*Mr. At. G.* By way of advice I do acquaint you that there is no Judicature in England superior to this, but the Parliament immediately; You are here Impeached of a very high Crime, High Treason, it may be a strain of youth, the first step to mercy is confession.

*Mr. Mord.*

Mr. Mordant. My Lord, I have heard that the Judges of the Land are the best and proper Expositors of the Law, and if they declare that this is the sense of the Act, I'll submit to the Court; if the Court will allow me Counsel I shall submit if my Counsel be convinced; I desire to hear the Commission read.

Mr. At. G. My Lord, this Gent. was a fellow-prisoner with one that went before him, he walks after the same steps, I wish he may not run into the same Error; these things were urged by Dr. Hewet, and the Court hath ruled that their Authority is sufficient, and therefore my Lord be pleased that this Gent. may plead.

Mr. Mordant. I am overborn both for Jury and Counsel, I desire that my reason may be convinced, if this Counsel will give it under their hands that this is Law by the Act of 1656. if you will say under your hands that this is Law that I must be excluded of Jury and Counsel, and that I must not know the Commission by which I am tryed, I will proceed.

L. Presf. I am afraid you have received ill advise from others, possibly you know what is become of that Prisoner that spake of Counsel; we cannot assign you Counsel as to matter of Fact; the Law and Act of Parliament have made us your Judges, and therefore you are to plead.

Mr. Mordant. My Lord, I desire that that Act maybe read to know whether I am to be excluded of Jury and Counsel; I referre it to this Counsel.

Mr. At. G. I doubt the Gent. is in jest, we are here to attend by command of his Highness the L. Protector; these Gent. are all sworn by Act of Parliament: it is a little slighting of the Court, to appeal from the Court to the Counsel; but (my Lord) I beseech you he may forbear to say he is overborn. You shall have Justice done if you will plead, if not there was a President but now; if you please to put your self upon the Trial, you shall have a fair Trial.

Mr. Mordant. My Lord, convince me by this Act that I am to lose the right of Jury; I have not heard any reason why I must lose it.

Mr. At. G. I do tell you the Court hath given Judgment just now in the like case.

Mr. Mordant. I ask a President for this.

Mr. At. Gen. I tell you a President, Sir H. Slingsby and Dr. Hewet.

Mr. Mordant. Is it a good President? if any give an ill president, it is reason I should debate it my self.

Mr. At. Gen. I humbly conceive that this Court is your Court, and you ought to plead it.

Mr. Mord. My Lord, I desire I may be heard; the words are, that the respective Commissioners, or the major part of them, are to meet, &c. I humbly conceive without the whole I cannot be tryed.

L. President. All this that you ask of us now we have declared this morning already to one who was before you at the Bar; the Quorum of this Commission is seventeen or any more of them: we must require you again to plead.

Mr. Mordant. My Lord, I desire a little patience, the number of the Commissioners is seventeen, I conceive that must be very much strained in reason that they must try, because it relates to the respective Commissioners; several persons were allowed Counsel, I humbly desire Counsel.

L. President. That is when there is matter of Law, you have alledged nothing, you are now upon matter of Fact.

Mr. Mordant. My Lord, my Indictment is matter of Law, and upon that I may safely demand Counsel, I desire to have Counsel as to my Indictment.

L. President. Your reason and my reason and all reason must submit to the Law: you are now upon matter of Fact, the single question is, guilty or not guilty.

Mr. At. Gen. My advise to you is, that you would put your self upon your Tryal.

Mr. Mordant. *I am not convinced at all, but forced upon it, and it is a hard thing; it is reason that my reason should be convinced, if this Act doth say in any place that I must lose those privileges, or if the Judges will declare it to be so, I will submit to it; if the Judges will declare that it must be tried thus, God's will be done; I desire to stand and fall by the Laws.*

Mr. Sol. Ellis. I will tell you where his mistake is, he speaks of former Trials, which we do not deny; but this Gent. will agree that it is in the power of Parliaments, by Acts of Parliament to alter those Trials; we conceive that this Act of Parliament hath determined the very question: for, my Lord, it is that you shall examine upon oath, and thereupon proceed to Conviction and final sentence, not by Jury: And this Act of Parliament hath entrusted you to be both Judge and Jury; All Englishmen must submit to what the Parliament hath done, and the Parliament hath determined this question that you have power to examine upon Oath, and thereupon to proceed to conviction, &c. If a Jury was to do it, you were not to proceed to Conviction; This Gent. says there is no President for it, but we say it was the same in Queen Elizabeth's time; they proceeded to Conviction and final sentence, when they proceeded against Duke Hamilton, Lord Capel, and Holland; did not the Parliament approve of what they did in that case as just, honourable and lawful? did not Duke Hamilton, did they not all petition to the House? did not the Parliament order Execution upon some, and cleared others? To say this is without president, when presidents are so frequent, I wonder that should be said. To that point of a Jury, I must tell this Gent. he speaks of a Jury, but hath not put himself upon a Trial; after he hath pleaded not guilty, then it must be considered the manner of the proceeding; but to come before he plead guilty or not guilty to desire a Jury, this is a little to anticipate your judgment.

Mr. Mordant. *I do not shew to be tried by the Act of Parliament, but reserve myself to the Judges, that those privileges of the Act may not be taken from me,*

Mr. At. G. The Parliament hath thought fit to go this way, and it is not to be disputed, they that live in this nation are not to dispute it: if that Gent. will please to recollect himself, and not (my Lord) thus expostulate and dispute with the Court of Justice, if he please to put himself upon a Trial, if he thinks himself innocent, I think it is best; and if he refuse it, his sentence is from himself.

Mr. Mordant. *I do not (my Lord) dispute the power of the Court, but I desire my reason may be convinced, and that I may have Counsel.*

L. Pres. We are clearly of opinion, we have not power in this case to appoint any other Jury, not to summon a Jury, we our selves have taken on oath; you would do well to plead.

Mr. Mordant. *My Lord, I have but little to say, and that is, that as that Gent. said, it was referred to the Court what Jury I shall have, I desire (my Lord) to know whether the Court doth intend to try me by a Jury.*

Mr. Sol. Ellis. They do not.

Mr. Mordant. *Is the Court Judge and Jury?*

Mr. At. G. If you will deal ingenuously with the Court, I think that is best.

Mr. Mordant. *Seeing I am here overruled, though not convinced in my reason, I shall demur to the Court, and plead not Guilty. I desire a Copy of my indictment, and time to plead.*

L. Pres. It was never done; for any Indictment of High Treason was never delivered to any Prisoner.

Mr. Mordant. *I urge my Lord Cooke for Authority, for a copy of my Indictment.*

Mr. Whelphers. *John Mordant Esquire, you stand here charged of High Treason; to this charge you plead not guilty, is this your Plea?*

Mr. Mordant. *Yes.*

Mr. Mordant. *I beg (my Lord) that my ignorance of the Laws may not prejudice me,*

me, not understanding or knowing any thing of the Law; and this granted me, I shall address to my justification.

Mr. At. G. Do you stand to your Plea not guilty?

Mr. Mordant. Yes.

Mr. Litchmore. My Lord, I shall shortly open the Impeachment; The Attorney Gen. hath exhibited a Charge of High Treason against *John Mordant Esq; viz.* That he the said *John Mordant* intending to embroile this Nation in new and intestine Wars the 30 of April last past, and at divers times since the 10 *Octob.* 26 together with *Henry Bishop, Hartgil Baron, &c.* at the Parish of *Clem. Danes* in the County of *Middlesex*, did traiterously, advisedly, and maliciously, plot, contrive and endeavour, First, to stir and raise force, and levy war against his Highness the Lord Protector, and the Common-wealth, to subvert and alter the Government of the same. Secondly, That he did traiterously, advisedly, and maliciously declare, publish and promote *Charles Stuart* to be King of *England, Scotland, and Ireland.* Thirdly, That he did traiterously, advisedly and maliciously hold intelligence and Correspondence with *C. Stuart*, and that he did declare these Treasons by overt act, that is to say, by conferring with *John Stapley*, and *Henry Mallory* how to effect the same, and did deliver several Commissions from *C. Stuart* to several persons, and this contrary to the Statute. To this charge of High Treason the Prisoner pleads not guilty; we are ready (my Lord) to call our witnesses to prove him guilty of these several Crimes; and with the leave of the Court, we shall call our witnesses,

Mr. At. G. I wish Mr. Mordant had done this before, and made himself capable of more favour.

Mr. Mordant then desired to have Pen, Ink and Paper, which was granted him.

*John Stapley* and *Anthony Stapley* were then called.

*John Stapley* sworne.

Mr. At. G. We produce this Gent. (I suppose he is well known to the Prisoner) to prove the Charge; I desire he may declare what he knows.

Mr. At. G. What do you know concerning the discourses of Mr. Mordant with you, touching the bringing in of *Charles Stuart*?

*John Stapley.* I have been in Mr. Mordants company several times, and what I can say will not be much; Mr. Mordant did once tell me there was such a design as the bringing in of the King, and he did ask me if I did not know of such a thing; I told him no; he was pleased to tell me somewhat of it: I asked him if he was engaged in it; he told me he was not.

Mr. At. G. What did he tell you concerning his being entrusted by the King therein?

*John Stapley.* He told me the King wrote to him, to speak to his friends that they would be ready to assist him when he should come into *England* with force, which he told me was with 7000 men; this was the chief of all.

Mr. At. G. Did he not say that he had Commissions from the King?

*John Stapley.* He did not tell me so, but I have heard him say others had had Commissions, two other Gent. in *Surrey*.

Mr. At. G. Did he not encourage you thereto? what Arguments did he use?

*John Stapley.* He spoke to me of it several times.

Mr. At. G. After what manner?

*J. Stapley.* Onely in commendation of the thing; I heard him say that if there were a necessity, *Surry* folks would come into *Sussex* to assist them.

Mr. At. G. Who was present at any of these discourses?

*J. Stapley.* There was none but him and my self.

Mr. At. G. At what place, and at what time?

*J. Stapley.* Near his own house at several times; I have told you the main of the discourses.

Mr. Mordant. Mr. Stapley, *about what time was this?*

J. Stapley Above a year since.

Mr. Mordant. Mr. Stapley, *at what place was the encouragement made?*

Mr. Stap. I do not know what he means by Encouragement, he onely told me of it.

Mr. Mordant. I desire to know when I told you that I had received a Letter to encourage my friends from beyond Sea, and who was by.

Mr. Stap. There was no body by.

L. Pres. About what time did he tell you of this Letter?

Mr. Stap. About half a year since.

L. Pres. Who was by?

Mr. Stap. No body my Lord.

Mr. Sol. Ellis. Did he tell you it was the King that wrote to him, and therefore it was just to assist him.

Mr. Stap. I think I heard him say so, I cannot take my Oath of it.

L. Pres. Did he tell you what considerable persons were concerned?

Mr. Stap. I have heard him speak of some persons that were engaged in this design, Sir Fran. Vincent, and one Brown; he said that Sir Will. Waller spake to him to speak to me.

L. Pres. When?

Mr. Stap. Above a year since, it was since the Parliament.

Mr. Mordant. My Lord, I do not know Sir W. Waller.

Anthony Stapley sworn.

Mr. At. G. What discourse have you had with Mr. Mordant touching Charles Stuart?

A. Stap. We were about a quarter of a year agoe at the halfe moon Tavern in Aldersgatestreet, at that time there was no discourse about the business at all. After that he was speaking to me about the Times, losses of priviledges, great taxations, &c. wherein I agreed with him, and wished they might be better. I asked him if there was any way to help it; he said yea, and said that Charles Stuart was intending for *Eneland*, and that would be a fair opportunity to redresse all grievances. At *Barkshire* house there he was pleased to enquire concerning the affairs of *Suffex*, and in what preparation they were, in case the King of *Scots* should land; I told him I did not know, I had not been in the Countrey lately, I did believe that there would not be an appearance suitable to his expectation: he told me something concerning *Surry*, that there was a considerable strength there ready to assist us in *Suffex*, and joyn with us when any such thing should happen; he did say that he had delivered out four Commissions, three for horse, and one for foot, but to whom I know not, I dare not sweare it, but it is to the best of my remembrance.

Mr. At. G. What discourse past between you at the Halfe moon Tavern in Aldersgate street about March last?

A. Stap. It was the day that the Cavalier party were to depart the Citie, there was Captain Mallory, my selfe, and this Gentleman Mr. Mordant, and then he spoke again concerning *Suffex*, that the King of *Scots* coming was suddenly expected, and desire to know in what readinesse we were; I told him I could not tell, but I did believe that things would be in as great a forwardnesse as the times would permit; It was agreed upon that some of our Countrey should meet Mr. Mordant at *Crawly* in *Surry* upon the Tuesday following.

Mr. At. G. What was the end of your meeting?

A. Stap. It was to consider further how things might be carried on, as to the business of *Surry* and *Suffex*, there was an expectation of the landing of Charles Stuart, and he did say that he heard Charles Stuart was in a readinesse; Mr. Mallory, my



my selfe, and Mr. Mordant, were to meet further to debate of things; I understood it was for the businesse of the King, but it was not positively so expressed; he asked me how things went on in *Sussex*; I told him I could not satisfie him: Therefore we told him there should some of our Countrey meet him at *Crawly* to give him an account; he said there was a considerable force, but I never heard him speak of any number of Horse or Foot in *Surry*.

Mr. Mord. Mr. Staply, I desire to know when I spoke to you of this.

A. Stap. My Lord, it was, I cannot tell the dayes, but it was suddenly after the breaking up of the Parliament, all the discourses were since the breaking up of the last Parliament.

Mr. Mord. I desire to know where I spoke this, and who was by.

A. Stap. As I take it the first discourse was at *Long Acre*, but no body by.

Mr. Mord. I desire to know the time when I met him at the *Halfe moon Tavern*.

A. Stap. It was the day set for the departing of the Cavalier party out of Town.

Mr. Mord. I desire to know who was by.

A. Stap. Captain Mallory.

Mr. Mord. I desire to know whether I did meet at the place appointed.

A. Stap. My Brother and Mr. Mallory did not meet him, because my Brother was sent for to *Whitehall*.

Mr. Mord. I desire to know the witnesses to all he says.

A. Stap. It was all private, only once at the *Halfe moon Tavern* with Captain Mallory.

Mr. At. G. My Lord, there was mention made of one Captain Mallory whom we did intend to have as a witness, he was committed upon this design, being privy to it; It hath so fallen out that he is lately escaped; I desire that Mr. Sergeant of Armes, Major *Ellison*, *Thomas Tatlock*, and *William Capput* may be sworn.

All four sworn.

Mr. At. G. We doe produce these witnesses for this end. Captain Mallory was a prisoner, and we did intend to make use of him here, but it hath so fallen out that his guilty conscience hath made him to fly; Aske these concerning his being custody, and endeavour of escape.

Maj. Ellis. My Lord, Captain Mallory was in custody, and a guard constantly set upon him, which guard was relieved every twenty four hours; the manner of his escape I only had by relation, we have used all endeavours to have found him since he is escaped, we did that night send presently to *Southwark* to Inns there, and laid wait for him, and sent to Captain Mallory's Brother-in-Law, where he formerly lay, examined him, but all in vain; where we had any intimation of any relation of his, we did send to search for him.

Serj. Dan. My Lord, upon the twenty eighth of May last since the escape of Cap. Mallory I received a warrant from the Councel commanding me to use all diligence for apprehending of Cap. Mallory; I have accordingly endeavoured it, not knowing his Relations, I did not speak to them: I have used all means I could, but cannot find him.

Tho. Tatlock. My Lord, Cap. Mallory went away about nine a clock at night, he went away in a black suit and cloak.

Wm. Capput. All that I know (My Lord) is that Cap. Mallory was a prisoner, and changed his habit and hair, went away and left money in the window to pay for his lodging.

Mr. At. G. My Lord, the intencion is to shew you Cap. Mallory was a prisoner, is escaped, and what means have been used for his apprehension; Officer pray swear Mr. Scobell.

Mr. Scobell sworn.

Mr. At. G. My Lord, Mr. Scobell was one of the Justices of peace that took Cap. Mallory's examination upon oath.

Mr. Scobell.

Mr. Scobell. My Lord, Cap. Mallory gave in information upon oath before my Lord Goffe and my selfe upon the twenty first of Aprill last, and upon his oath did inform us, that about the beginning of March last Cap. An. Staply and himselfe being at the *Halfe moon Tavern*, Joh. Mordant Esq. being upon the Exchange was sent for to Mr. Staply, and that he came; Thereupon Mr. Staply presented Cap. Mallory to Mr. Mordant as a Gentleman that was interested in *Charles Stuart's* designe, together with Mr. Staply that was his Brother; he said that by that Brother he meant Joh. Staply Esq. Thereupon he informed us that Mr. Mordant did demand of Cap. Mallory in what readinesse the Horse that were to be raised in *Suffex* were: Mr. Mallory informed us that to that he returned an answer, that they were not in so good a posture as he did believe Mr. Joh. Staply had represented to Mr. Mordant, but doubted that it would fall much short: Mallory told us that at that answer Mr. Mordant did much wonder, because he said *Charles Stuart* the King was in a very good posture, and that there was a daily expectation of his coming over with forces, and that thereupon Mr. Mordant did desire that there might be a meeting in some convenient place between him and Mr. Staply, and such others of that County of *Suffex* as should be thought fit. My Lord, it was (he said) to this end that there they might conferr together, and understand how the affairs stood in reference to the Counties of *Suffex* and *Surry*, that they might the better assist each other in the intended insurrection; he did inform us (my Lord) that accordingly it was agreed there should be a meeting upon the Tuesday following at *Crawly*, and in order thereunto he said that Mr. An. Staply and himselfe did speak with Mr. Joh. Staply to have a meeting accordingly at *Crawly* upon the Tuesday following, and they did agree to it: he said that they should meet with Mr. Mordant at *Crawly*, but in the mean time Mr. Joh. Staply being sent for to *Whitehall* that meeting was prevented. My Lord, this is all.

L. Pref. Mr. Mordant, would you aske Mr. Scobel any question?

M. Scobel. I suppose that Mr. Mordant's asking me any question will not advantage him, or that my testimony is disadvantageous to him; for all that I have spoke was the same that Mallory declared unto me and my Lord Goffe as Justices of the peace.

Mr. Mord. My Lord, I neither know this Gentleman nor Mr. Mallory upon my oath.

Mr. At. G. Mr. An. Staply, were you with Cap. Mallory and Mr. Mordant at dinner together at the *Halfe moon*?

Mr. A. Stap. My Lord, Cap. Mallory was once there, but not at dinner.

Mr. Sol. Ellis. The Attorney General hath exhibited a charge of High Treason against the prisoner at the Barr, that was, to raise force against the Government, and publish *Charles Stuart* to be King, and held correspondence with him.

Mr. Mord. "My Lord, you have heard the witnesses, the first Gentleman Mr. Joh. Staply, he was pleased to urge against me, that I said *Charles Stuart* writ to me to engage my friends, but said not that he saw the letter, or that any one was by: he did not name the time or place but at randome, but that I said so; being asked about Commissions, he denies that I told him I either had Commissions, or delivered any; he says I gave him encouragement to this engagement, or what he calls it I know not, but, he doth not say what kind of encouragement it was: he doth not say I promised him money, or preferment; he says he heard I engaged two other Gentlemen, Sir Francis Vincent and Col. Brown; he was asked, if any was by at these discourses, he said none was by: My Lord this is a single evidence; he says it was a year or more since, he says I said I was intrusted by *Charles Stuart* about the latter end of the last winter. For Mr. An. Staply, he urges against me, that at his lodging I discoursed with him, that the way to helpe us was to bring in *Charles Stuart*; he says that I said in *Surry* was a considerable strength to joyn with *Charles Stuart*, which if true might prove troublesome

"to

"to me, but I have not been in *Surry* this year and a halfe: he says, only to the best of his remembrance, I said I had three or four Commissions, but he says it is to the best of his remembrance, but doth not say he saw the Commissions, and will not swear whether they were for Horse or Foot: he says at the *Half-moon* I spake with him and *Mallory*, who that is I have already spoke to: he says I did not name the number of any forces that were ready: he says that we agreed to meet on the *Tuesday* following at *Crawly* with Mr. *Mallory*, but says that I was not there. My Lord, I doe not know that place, He says it is in our Country, but it is not: he says it was his Brother *Job. Staply* that was to meet me: he says it was not about any positive thing why I was to meet there, but in generally, to carry on things about the intended design: he says not that I said it, but that I said I heard that *Charles Stuart* would land with a considerable party: he says it was to debate things in generally, he said it was not said about *Charles Stuart*, that he was not mentioned, but he supposed it to be so: he says positively that I never spake of any number of Horse or Foot, or any thing of that kind, I asked him when I first spoke of this; he returned no time, would not say any positive time, but said all was since the breaking up of the Parliament: I asked him who was by, he said no body, all was private: he says the time when we were at the *Half moon* was near the time that those that served the late King were banished; he says positively I did not meet at the place appointed, and he gives the reason, a very insufficient one, because his Brother was sent for up; that could not hinder me: he waves his own meeting: he says all was private; I submit it all to this honourable Court.

Mr. *Sol. Ellis*, The Charge is for levying of War to alter the Government, and embroyle us again in a new War; to which he pleads not guilty: for the proof of this we have offered to you witnesses; I shall take them in order as the Gentleman did at the Barr. *John Staply* said Mr. *Mordant* said the King writ to him to encourage and engage his friends to assist him at his coming; but says not the time when this was done: he says he did not see the letter, but says Mr. *Mordant* told him he had a letter, all the discourses (because he says there was no time) it agrees that they were since the tenth of *October 1656*, and so it is clear within this Act, and within your jurisdiction. Now see how it was carried on; after he had told him this, how doth he encourage him in his telling him the justice of the cause; the persons engaged therein, and of Sir *William Waller*. Then (My Lord) he told them if the Forces of *Suffex* were not sufficient, that the *Surry* forces would come to assist them for the coming in of *Charles Stuart*: this both *John* and *Anthony Staply*. So that we conceive under favour that *Job. Staply* and *An. Staply* doe agree in most of the circumstances. *An. Staply* says that Mr. *Mordant* came to him, tells him there were great grievances; I, says he, but how shall it be remedied? tells him that *Charles Stuart* intended to come to *England* with a great force, which would redresse them: he asked him how the business was in *Suffex*; he said it was not in so good a posture as he expected: he said that *Surry* forces should joyn with *Suffex*. My Lord, I leave it nakedly to you, if you find this to be true, we submit it to you, and Mr. At. G. will pray what his place requires.

Mr. At. G. You have heard the business, this Gentleman hath interposed himselfe where he was not called; it is a happiness this business was discovered: upon this evidence: I leave it to your justice, and as you shall judge I shall say more.

Mr. *Mord.* "My Lord, I will speake to you very short, it is this; that to all this though it be urged against me by the ablest men in the Land, yet there is but one witness in a manner, and that differing in many circumstances — Here he was interrupted. My Lord, I leave it to you, I remit my life into your hands, resting and believing your Lordships will deale with me as one of this Nation, an English Freeman. I leave it to you, and doe submit.

L. *Pres.* Withdraw the Court.

*Proclamation to adjourn into the Painted Chamber.*

After a little debate in the *Painted Chamber*, they adjourned till the morrow the second of June.

2 June 1658.

The Lords Commissioners met in the *Painted Chamber* about 10 in the morning and there continued till about 4 a clock afternoon, and then adjourned into *Westminster Hall*, where Proclamation being made, the names of the Lords Commissioners being read,

Mr. *Serj.* was commanded to bring Dr. *Hewet*, Sir H. *Slingsby* and Mr. *Mordant* to the Barr.

Proclamation for silence was made.

Mr. *Phelps*. Si. H. S. Stand at the Barr, and heare what the Court hath to say to you.

Mr. *At. G.* My Lord, as for Sir H. *Slingsby* and Mr. *Mordant*, you have heard the impeachment read, and their *Pleas*; I have given in the evidence, I pray your judgement as to them: as for the other, you have heard the impeachment, and no defence; I pray your justice.

L. *Pres.* Sir H. S. Knight, thou hast been impeached on the behalfe of the Lord Protector and this Common-wealth of High Treason to which thou hast pleaded Not guilty, which the Court hath taken into consideration; What hast thou to say further, why this Court should not proceed to Judgement?

S. H. Sl. My Lord, I humbly desire I may be try'd by a Jury, for I must say you are my Enemies, (pardon the expression;) if not so, why did you Sequester me, and sell my whole estate? and why did you deny me the Act of Oblivion? There is no man would willingly appeale to his adversaries; there are some among you that have been instrumental in my Sequestration, and in the selling of my Estate, for which they gave me no reason but this, that I would not compound, when I thought not fit so to doe, when there was no establishment or settled peace; if I had compounded, I had not been sure whether I might not have compounded over again; my Estate hath been Sequestred, and sold; now to be my Judge and Jury. I humbly pray, being a Commoner, I may be try'd by Commoners.

L. *Pres.* S. H. Sl. I am not to heare you as to any of these things, (you have pleaded already) this is not a time of pleading, but a time of judgment; Therefore I must require your silence, and heare me a few words. S. H. Sl. I am really, &c.

*The Lord Presidents Speech.*

Sir Henry *Slingsby*, I am really and truly afflicted for your sad condition, but when I consider the nature of your Offence, with the circumstances and aggravations of your Treason committed; when I consider your person; and that such a person as you are, should be instrumental in so detestable a Conspiracy, and when I think of that Judgement that must be given against you, methinks you are one of the saddest Spectacles that ever I beheld in all my days, I beseech God that you may seriously lay it to your heart, with sorrow and repentance, and that you may be more sensible of what you have done, then of what you are to suffer.

Sir, Was it not a great aggravation of the sins of the Egyptians, that when God had declared himself by so many signs and wonders on the behalf of the Israelites, that yet notwithstanding they would still pursue *Moses* and *Israel*? was not this a great aggravation of their sin?

Who is so great a stranger in this Nation as to be ignorant what God hath done amongst us, by a series of wonderful Providences so many years together against that very party who are still hatching of Treasons and Rebellions amongst us? It grieves my very soul to think of it, that after so many signal provi-

Providences, wherein God seems to declare himself (as it were by signs and wonders) that your heart should be still hardened, I may say, more hardened than the very hearts of the Egyptians, for they at length did not only see, but confessed that the Lord fought against them; but you, O that you would confess, and give glory to God. You cannot chuse but see that the Lord fights against you, that the fiars in their courtes fight against you, and yet you will not see, you will not confess, until destruction over-takes you. This is a sad lamentation, and I beseech God that you may seriously consider it.

Sir, If the signal and the wonderful Providences of God will not deter you, yet methinks National confederations should deter you from such a Treason as this is: *Charles Stuart* is in Confederacy with *Spain* against *England*, he is in Confederacy with that great Popish interest. Is it imaginable that an Englishman, that a Protestant should assist such a Confederacy as this is; yet that which is not imaginable in it self, is here clearly and evidently proved before us.

Sir *H. Slingby*, There are three witnesses, *Major Waterhouse*, *Capt. Overton*, and *Licut. Thompson*; two of them full in evidence as to every Charge against you, and three of them as to some of the Charges; and besides your own Confession at the Bar full in proof against you. Did it not clearly appear in proof before us, that you promoted *C. Stuart* to be King of *England*? Did it not clearly appear before us, that you endeavoured to betray the Garrison of *Hull* to *C. Stuart*? Did it not likewise clearly appear before us, that you endeavoured to withdraw the Officers and some of the Soldiers of that Garrison from their obedience to his Highness, and to make a mutiny in that Garrison, and all the circumstances did clearly appear? Was it not proved before us, that you offered a Commission to *Major Waterhouse*, and promised him a Commission in the first place, and a second to *Capt. Overton*, and a Deputation to the third? And what you promised, did you not make it good? Did you not with your own hand offer a Commission sealed, and said it was from *C. S.* And did you not only encourage him, by telling him that he was coming into *England* with a considerable Force; but did you not promise also, that upon his landing, 5000*l.* should be paid to *Maj. Waterhouse*? All these things were clearly proved before us.

Sir, What said you to this Proof? You confessed upon the matter all, in effect all; but only some things you said by way of excuse, and I shall truly relate them all. All you did, you told us was but in Jest. What (Sir) if those discontented English that complied with *Spain* in *Q. Eliz.* days in '88. had said they had been in Jest; what would you have thought of that, Sir? What if those Jesuited Papists that would have blown up the Parliament-house upon the 5. of *Novemb.* with Barrels of Gunpowder, had said that they had brought in those Barrels in Jest; what would you have thought of it? Sir, be not deceived; As a man sows, so shall he reap: You have sowed Treason and Rebellion, and you are now come to reap the fruit of it.

And Sir, you told me you did not own the Government, you were a Prisoner and therefore could not be bound by the Laws of that Government. Sir, doth not every Englishman owe a natural Allegiance to the supreme Magistrare of *England*? Is not every Englishman, whether in Prison, or out of Prison, bound by the Laws of *England*? Sir, if you own not the Government of *England*, that is an offence in it self, a great offence, and would you make an offence against the Government to be an excuse, or justification for Treason?

The last thing you said was this, you told us you were Trepan'd into it, Sir, did not you your self, of your self promise a Commission to *Major Waterhouse*, did you not of your self offer 5000 pound to be paid as soon as *C. S.* Landed upon English ground. I shall name those worthy Gentlemen for honest sake to them, that had a hand in this discovery. It was that prudent and faithful Governor of *Hull*. *Col. Smith*, that had a hand in it. There was those

worthy and faithfull Commanders, who were here in Court, Maj. Waterhouse, Capt. Overton, and Lievt. Thompson. Sir, these faithfull and werthy Gentlemen have carried themselves in this business, like the man of understanding, that Solomon speaks of.

I have done, only I would say one word to you, because I hear you are a Protestant, I would only ask you this question, what think you, would have become of the Protestant Interest, of the Protestants of *England, Scotland, and Ireland*; if you had had your will, if *Charls Stuart* had come in; if you had but time (but the Lord knows you have not time) to look over the Records of *England*, to look over the declarations of Parliament since 1640. if you could remember it Sir, it would tell you what Family it was that betrayed the Protestants in France, when Rochel was taken; what Family it was that betrayed the Protestants in Germany, and in the Palatinate, vvhhen a peace was made with Spain without consent of Parliament. What could you think of that Family that did tolerate Popery for a match with Spain? What then would that Family have done, if it could have gained them *England, Scotland & Ireland*?

And now Sir, but one word more to you as you are an English-man: I beseech you consider what would have become of this Nation, if you had had your will; you had brought a new Civil war upon *England* at the least. I cannot think of a New Civil war upon *England*, but I think of desolation upon desolation to this poor Nation, &c.

I have but one word to say to Dr. Hewet: And Sir, when I look upon you as a Minister, I must confesse I do not know how to speak to you, because it has always been my way to speak to men of your Profession, to Ministers, I never spake to them but as a Child speaks to his Father: Such reverence and such regard I bear to their Office. But to speak so to a Minister, as a Judge speaks to a Traytor, I must confesse I know not how to do it. But Sir, there must be words spoken to you, though I do not speak them, and not onely to you as a Traytor, but a Traytor in the highest degree; not as a Traytor (as you are intitled, for endeavoring to levy a new War, and to bring desolation and a War in this Nation) but such an one as should rather die a Traytor then own the Authority of the Nation. But Sir, I know not how to speak to you, and therefore the Record must speak to you; and I my self will not any further.

I have now a word to speak to you Mr. Mordant, God hath appeared in Justice, and God doth appear in Mercy; as the Lord is just to them, so he is exceeding merciful to you; and I may say to you, That God appears to you at this time, as he speaks to sinners in Jesus Christ; for Sir, he doth clear sinners in Christ Jesus, even when they are guilty, and so God cleareth you: I will not say you are guilty, but ask your own Conscience whether you are or no. Sir bleis God as long as you live, and bleis my Lord Protector, by whose authority you are cleared. Sir I speak no more, but I beseech you to speak to God.

And now let me add this word to those two Gentlemen. Sirs, when I have done speaking, I shall never have done praying for you, as long as you are alive; that is the last thing I must say to you: And now let the Judgment of the Court be read.

Thereupon the Clerk read the Judgment and Sentence of the Court against Sir H. Slingsby Kt. which was as followeth.

**T**hat the said Sir Henry Slingsby as a false Traytor to his said Highness the Lord Protector, and this Commonwealth, shall be conveyed back again to the Tower of London, and from thence through the middle of the City of London, directly shall be drawn unto the Gallows of Tibourn, and upon the said Gallows there shall be hanged, and being alive, shall be cut down to the ground, and his Entrails taken out of his Belly, and he living, be burnt before him; and that his Head shall be cut off, and that his Body shall be divided into Four quarters, and that his Head and Quarers shall be placed where His Highness the Lord Protector shall be pleased to sign.

In



In the next place, the same Judgment and Sentence of the Court was read against Dr. Hewet being ingrossed in like manner.

This being done, the Judgment of the Court was declared concerning Mr. Mordant, whis (in short) was, That upon consideration of the whole matter, in reference to the Charge against him, and his Plea thereunto, They did adjudge him, *Not guilty*. And so the Prisoners were dismiss.

Proclamation being made, the Court adjourned back to the Painted Chamber, where they ordered the execution of the Sentence upon Sir Henry Slingsby and Dr. Hewet, to be on Saturday next. And Warrants are issued out to the Sheriffs of London to see execution done accordingly.

Then the Court adjourned it self till Thursday the Tenth instant.

Notwithstanding the former Sentence passed by the High Court, yet his Highness being informed, that Dr. Hewet, prisoner in the Tower of London, who stand attainted of High Treason, before the Commissioners appointed by Act of Parliament, for levying War against his Highness and the Commonwealth, had Judgment to be hanged, drawn and quartered at *Tibourn* this instant Saturday, his Highness was graciously pleased, upon humble suit made, to reprieve him till Tuesday the eighth instant, at which time he is to be executed on Tower-hill, by severing his Head from his Body; and His Highness pleasure is, that the Judgment shall be remitted.

The like favor also was extended to Sir Henry Slingsby, who is to suffer the same day, in the same place.

*The manner of the Execution of Sir HENRY SLINGSBY on Tuesday the 8. of June, 1658. With the substance of his SPEECH before his Death.*

**A**Bout Eleven of the clock Sir Henry Slingsby was brought from the Tower to the Scaffold on Tower-Hill; whither being come, hee fell upon his knees, and for a short space prayed privately.

Then standing up, he did in a short Speech, and with a very low voyce, address himself to that

noble Gentleman Mr. Sheriff Robinson, telling him that what he had to say he would speak to him; which was to this purpose:

*That he had received a Sentence to die, upon account of his endeavouring to betray the Garrison of Hull: But said, All that he did in that business he was drawn into by others.*

*That the Officers of that Garrison did believe he had some greater Designe in hand, and therefore they would needs pump him to the bottome: But what he spoke to them in private was brought into evidence against him: He likewise said, That he did no more than any person would have done that was so brought on.*

*That he had made many applications ( by his Friends ) for a Reprieve, but found his Highness was inexorable.*

*He did confes that he did deliver a Commission ( as it was charged against him: ) But said, that it was an old Commission, and what he meant was well known to himself; but what construction others had made of it might appear by his present condition.*

*He discovered little sense of sorrow, or fear of Death; but said, He was ready to submit, or words to like purpose.*

Then he addressed himself to private prayer again; and kneeling down to the Block he prayed privately for a short space: Then laid his head upon the Block, and at the signe given, the Executioner severed his Head from his Body at one Blow: And his Friends put his Body into a Coffin, and removed it into a close Coach prepared neer the place.

*The*

*The manner of the Execution of John Hewet, D.D. on the same Scaffold, on Tuesday the same 8: of June 1658. with the substance of his speech before his Death.*

**A** Sfoon as Sir Henry Slingsby's body was removed, as is aforesaid, Dr. Hewit was brought upon the Scaffold, whither being come (together with Dr. Wild, Dr. Warmstry, and another Divine) he fell upon his knees, and prayed privately for the space of a quarter of an hour; After that he prayed audibly for a good space.

After which prayer he addressed himself to the people in a speech which continued above the space of an hour; the substance of which speech was as followeth.

That he was become a publick Spectacle to Men and Angels, and that he hoped the omniscient God was then beholding him with much pity and compassion, the rather because he came hither to bear witness to the truth, for which end he came into the world, both as a common Christian and as a Minister, for wickh dignity he blessed the name of God.

That it seemed strange to him that he pleading for the lawes and customes of the Land, should dye by those that should also stand for them.

That he had rather dye many Deaths then betray his fellow Freemen to the inconveniences of a subjection to their wills that had condemned him to Death.

That although he had no knowledge of the Lawes, yet he had instruction from the learned in that faculty, and had accordingly urged severall Cases, and that he had made his appeal to the learned in the Law, to the Judges, and to his Highnesse own Councell.

That through his ignorance in the customes and formalities of Courts, he was taken in 3. defaults, but that when he would have pleaded, and resolved so to do, he was taken from the Barr.

That he did the next day petition the Court twice, subscribing his name thereunto, to be admitted to plead; but the Title of the Court being mis-taken in the one, and a word left out in the other, it was taken for an Affront or Contempt to the Court, and that his answer was his sentence.

He prayed God to forgive those that adjudged him to dye, taking advantage of his ignorance.

That at the beginning of his Tryall there was a seeming consent that nothing should be taken to his prejudice through his ignorance in the nicety of the Law; but heartily prayed God to forgive them, and desired that even those that shed his blood might have the blood of Christ shed for them.

He acknowledged himself to be a member of the Holy Catholick Church, which he said was the Church of *England*, which Church he averred was for Doctrine and Discipline, (till the late sad reformation) more divine and Apostolicall then any other doctrine or Church in the world.

He made confession of his faith negatively, and affirmatively; negatively that he did abhor all Sects, Schismes, &c. in Religion: affirmatively, that as he did hold communion with, so he did love and honour all Christians, that lov'd the same Lord Jesus in sincerity.

That he did hope for salvation through the merits of Christ Jesus only, although unto faith good works are necessary, not meritorious.

Touching the treasonable design wherewith he was charged, he said that he hoped that his Conversation had been such that none would imagine he should intermeddle in such an Action, and hoped that none were so uncharitable as to believe he had knowledge of that design.

He declared a particular abhorrency unto the firing of the City, professing that if he had known of such a design he should have been the first discoverer.

That he never saw the Marquesse of *Ormond* in his life. And touching the report of his being at *Bruges*, &c. He averred that he had not been 60. miles out of *London* these 3. yeares last past. That he knew the Names, but never saw the faces of Barrow nor Bishop, persons with whom he was charged to hold correspondence.

He remembered that his Highnesse told him he was like a flaming Torch in the midst of a sheaf of Corn: but said it was very uncharitably done of them that so irritated his Highnesse against him; but prayed the God of mercy to pardon and forgive them all.

Thus (but more largely) having spoken to the people, he told them he would after the manner of our Saviour, (who when he was to be taken from his Disciples, blessed them) pray for them, which he did accordingly for a good space with much earnestnesse and piety.

After this, he joyned in publick prayer with Dr. *Wild*, and Dr. *Wormesley*, he all the while lying flat upon his breast.

Then he addressed himself to private prayer, wherein he continued a certain time.

After this he prepared himself for the Block, and with a black Ribbon bound over his eyes, lying with his breast o're the Block. He prayed again for a short while. Then laid his neck upon the Block, and after some short and private Ejaculations, the Executioner (having notice that he was ready) at one blow severed his head from his body; which was also put into a Coffin, and conveyed away by his friends.

The confluence of people of all sorts to behold these Executions was very vast, the like to which hath not been observed.

F I N I S.